REMARKS

Claims 1-25, 27, and 30-33 are pending in the present application with claims 1, 10, 27, 31 and 32 being the independent claims. Claims 32 and 33 are added by the current amendment. In summary of the outstanding Office Action, Claims 1-28, 30, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulhof et al, U.S. Patent No. 5,572,442 in view of Neville et al., U.S. Patent no. 6,272,636.

Acknowledgment of the drawings as formal is respectfully requested.

Reconsideration of the outstanding rejections to the claims is respectfully requested in view of the following remarks.

Examiner Interview

Applicants' undersigned attorney wishes to thank Examiner Hewitt for the opportunity, on February 20, 2007, to conduct a telephonic interview on the pending Application and for his careful attention to the matter. During the interview, the use of "when" in the claims was discussed and Applicants agreed to amend the claims to remove recitations containing the word "when." Agreement was not reached regarding the outstanding claim rejections.

Claim Amendments

Claims 1-5, 7-21, 23-25, 27, and 31are currently amended. Claims 26, 28, and 30 are canceled in this response. New claims 32 and 33 have been added. Support for the new claims may be found in the specification at least at pages 35-39.

Rejection of Claims 1 – 28, 30 and 31 under 35 U.S.C. § 103(a)

Claim 1

Claim 1 stands rejected under 35 U.S.C. § 102 as allegedly being unpatentable over Schulhof et at. in view of Neville et al. Claim 1, as amended, recites in part:

> receiving unrestricted playback selection information regarding a previously recorded music content item from a station, said station being associated with a customer, said unrestricted playback selection information having been generated automatically upon determining that the previously

> recorded music content item has been played at least a predetermined number of times at the station;

In the Response to Amendments/Arguments, the Examiner stated that "Neville et al. teach communicating unrestricted playback information regarding previously recorded content when content has been executed a predetermined number of times." (OA p. 2.)

Neville discusses the use of execution control that "allows a limited the number of metered digital products 200' executions or allows product 200' execution only during a limited time period." (Neville, column 8, lines 55-57.) Neville explicitly describes what happens when the number of allowed executions is exceeded.

> If the trial evaluation is complete, the control passes to block 610 where meter code section 402 presents a message to the user indicating the trial evaluation has terminated and that purchase is now required to continue use. Code section 402 then terminates and control returns to block 600 for normal operating system control, i.e., as before the user initiated execution of product 200. (Neville, column 9, lines 46-53.)
>
> If the user is not to be allowed use of this application, i.e., the server/clearinghouse 804 determines that an evaluation period has expired, the server does not transmit the unlock key 803 to the end-user 806 computing device but sends and "end of evaluation" message. (Neville, column 13, lines 31-35.)
>
> If, however, the user's evaluation use has expired, then processing branches from decision block 904 to block 908 where an expiration message may be delivered from clearinghouse 804 to the end-user 806 computing device indicating that execution is not allowed and that the evaluation use has expired. (Neville, column 14, lines 9-15.)

In no case does Neville describe *automatically* generating unrestricted playback (or use) selection information *upon determining* that an item has been played (or used) *at least a predetermined number of times*. Rather, Neville teaches blocking further usage in response to determining that an evaluation period or number of uses has expired.

The cited sections of the Schulhof specification describe a subscriber manually selecting program material for playback as desired (Schulhof, column 4, line 48 to column 5, line 20; column 6, lines 24-52), a subscriber manually selecting materials on a one-time basis or a subscription basis (Schulhof, column 7, line 54 to column 8, line 2), a subscriber

purchasing trial subscriptions in which portions of materials are periodically deleted (Schulhof, column 9, lines 20-26), and an information request manager that manages subscriber program requests (Schulhof, column 10, lines 42-65). In no case does Schulhof describe *automatically* generating unrestricted playback selection information *upon determining* that an item has been played *at least a predetermined number of times*.

For at least the reasons explained above, Applicants respectfully submit that the cited references, either alone or in combination, do not teach the quoted claim recitation and, therefore, Claim 1 is patentably defined over the cited art. Accordingly, Applicants respectfully request that the rejection of Claim 1 be reconsidered.

Claims 10, 27, and 31

Claim 10, as amended, recites in part:

> a mechanism configured to communicate unrestricted playback selection information regarding a previously recorded music content item, which was previously recorded in the storage medium, said unrestricted playback selection information having been generated automatically upon determining that the previously recorded music content item has been played at least a predetermined number of times.

Claim 27, as amended, recites in part:

> a communications module configured to communicate unrestricted playback selection information from the station, said unrestricted playback selection information having been generated automatically upon determining that a previously recorded music content item has been played at least a predetermined number of times at the station

Claim 31, as amended, recites in part:

> a second interface configured to communicate unrestricted playback selection information from the station and for receiving enabling information for enabling unrestricted playback of a previously recorded music content item, said unrestricted playback information being automatically generated and communicated upon determining the previously recorded music selection has been played at least a predetermined number of times at the station.

The remarks presented above with respect to the quoted recitation from Claim 1 apply as well to the quoted recitations from Claims 10, 27, and 31. Thus, for at least the reasons presented above with respect to Claim 1, Applicants respectfully submit that Claims 10, 27, and 31 are patentably defined over the cited art. Accordingly, Applicants respectfully request that the rejection of Claims 10, 27, and 31 be reconsidered.

Claims 2-9 and 11-25

Claims 2–9 and 24 depend, directly or indirectly, from Claim 1. Claims 11–23 and 25 depend, directly or indirectly, from Claim 10. Applicants respectfully submit that for at least the reasons explained above with respect to independent Claims 1 and 10, dependent Claims 2-9 and 11-25 are patentably defined over the cited art and, accordingly, respectfully request that the rejection of these claims be reconsidered.

New Claims 32 and 33

Claim 32

Claim 32 has been added in this Amendment. Claim 32 recites in part:

> receiving a request for unrestricted playback rights for the music content item, said request having been generated automatically upon determining that the music content item has been played at least a predetermined number of times at the station

Applicants respectfully submit that for at least the reasons presented above with respect to Claim 1, new Claim 32 is patentably defined over the cited art. Accordingly, Applicant respectfully request that Claim 32 be considered for allowance.

Claim 33

Claim 33 depends from Claim 32. Applicants respectfully submit that for at least the reasons explained above with respect to independent Claim 32, dependent Claim 33 is patentably defined over the cited art and, accordingly, request that Claim 33 be considered for allowance.

Conclusion

As explained above, Applicants submit that Claims 1-25, 27, and 30-31, which currently stand rejected in the Application, are patentably defined over the cited art. New Claims 32 and 33 have been added. No new matter has been added. The Examiner is respectfully urged to reconsider the Application. Favorable consideration and passage to issue of the application is earnestly solicited. If the Examiner should, however, find the claims as presented herein are not allowable for any reason or if the Examiner has any questions, comments, or suggestions that would expedite the prosecution of the present case, the Applicants undersigned representative would sincerely welcome a telephone conference at (206) 903-2475.

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